



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 25, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Wajahat Habibullah
Minister of Community Affairs
Embassy of India
2107 Massachusetts Avenue, N.W.
Washington, D.C. 20008-2811

RE: MUR 4583

Dear Mr. Minister:

On November 12, 1996, the Federal Election Commission found that there is reason to believe Devendra Singh and the Embassy of India ("respondents") knowingly and willfully violated 2 U.S.C. §§ 441e and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The respondents may submit any factual or legal materials that they believe are relevant to the Commission's consideration of this matter. Such materials should be submitted to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If the respondents are interested in pursuing pre-probable cause conciliation, they should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

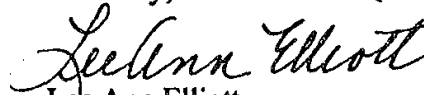
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If the respondents intend to be represented by counsel in this matter, they should advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437(a)(12)(A), unless the respondents notify the Commission in writing that they wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


Lee Ann Elliott
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Devendra Singh and
the Embassy of India

MUR: 4583

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See U.S.C. § 437g(a)(2).

2 U.S.C. § 441e states that it is illegal for a foreign national to directly or indirectly contribute to any candidate in a federal election. It is also forbidden for any person to solicit, accept or receive any such contribution from a foreign national. Further, a foreign national may not participate in or control the election related activities of a person or organization. 11 C.F.R. § 110.4(a)(3). The term "foreign national" includes, *inter alia*, an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, or as a foreign principal as defined in title 22. 2 U.S.C. § 441e. 22 U.S.C. § 611(b) defines "foreign principal" as, *inter alia*, a foreign government.

2 U.S.C. § 441f prohibits: (1) making a contribution in the name of another; (2) knowingly permitting one's name to be used to effect such a contribution; and (3) knowingly accepting such a contribution. In addition, no person may knowingly help or assist any person in making a contribution in the name of another. 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(iii). 2 U.S.C. § 431(11) defines "person" to include committees and groups of persons.

The Act addresses violations of law that are knowing and willful. See 2 U.S.C. § 437g(a)(5)(B). The knowing and willful standard requires knowledge that one is violating the law. Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions. Id. at 214-15.

In the 1993-94 election cycle, Lalit Gadhia solicited several individuals to contribute money to the Indian-American Leadership Investment Fund ("IALIF") or directly to a federal candidate committee. He promised to reimburse each of these contributions. Mr. Gadhia pled guilty to causing a false statement to be made to the Commission in connection with FEC reports which were filed by the IALIF and political committees listing funds contributed in the name of another.

The Statement of Facts, which served as the basis for Mr. Gadhia's plea agreement, indicates that all of the funds used to reimburse conduits originated from Devendra Singh then Minister for Personnel and Community Affairs at the Indian Embassy. The link between the Indian Embassy and this reimbursement scheme is reflected in seized documents from Mr. Gadhia office listing all reimbursed contributions together with the Airborne Express receipt addressed to Mr. Singh at the Embassy. Mr. Gadhia's documents reflect a total of \$60,800 in reimbursed contributions. This document lists each contributor's name and address, the amount of the contribution, and

the committee which received the contribution. Gadhia also included a photocopy of each check.

Further, the elaborate efforts undertaken to mask the source of the funds points to the likelihood that Mr. Singh knew that it was illegal for him or the Indian Embassy to contribute funds. See Hopkins 916 F.2d at 214-15. Accordingly, there is reason to believe that Devendra Singh and the Embassy of India knowingly and willfully violated 2 U.S.C. §§ 441f and 441e.